IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 644 OF 1987

State of Maharashtra .. Appellant

versus

Dattatraya P. Padwai & 2 ors. .. Respondents

...

Mr.D.P. Adsule, APP for the State.

Mr.Vineet Naik for the respondent no.3.

CORAM : V.M. KANADE, J

DATED : 16th September 2004.

ORAL JUDGEMENT :-

1. Heard the learned APP appearing for the State and the learned counsel appearing on behalf of the respondent.

2. The State has filed an appeal challenging the judgement and order passed by the trial Court in Regular Criminal Case no.377 of 1982. Three accused

were charged under section 468 for having forged a document and for adding a simple sentence in the said document. The accused nos.1 and 2 have been acquitted by the trial Court. Appeal against acquitted which was filed against them has been rejected. Leave is granted to them so far as original accused no.3 has observed that the only evidence so far as accused no.3 is concerned is uncorroborated opinion of the handwriting expert. The trial Court has further observed that the prosecution also could not prove that the specimen handwriting of accused no.3 was sent to the handwriting expert.

3. Under these circumstances, the trial Court felt that there was a material lacunae on the evidence of the prosecution. The trial Court also observed that apart from accused no.3, one other person Prabhulal accompanied him and his specimen handwriting was not obtained by the prosecution. In view of all this, the trial Court acquitted the accused. The trial Court even after coming to the conclusion that the specimen handwriting of the accused was not properly sent to the handwriting expert, had also taken into consideration the said specimen of the handwriting and has compared it with the report and

has observed that the said handwriting in the alleged specimen is not that of the accused no.3.

4. I have perused the evidence on record and after having examined the evidence of the handwriting expert and other witnesses, I am of the view that the finding which is given be the trial Court is not unreasonable and the view which is taken by the trial Court is a possible view. The criminal case was filed in 1982. The appeal was filed in 1987. More than 15 years have passed. That is also an additional factor why this Court would not like to interfere with the finding of the trial Court.

Appeal is therefore, dismissed.

V.M.KANADE, J